

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:24-mj-00033-WCM**

UNITED STATES OF AMERICA

v.

SHAWN PIERRE BERNE

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ORDER

This matter is before the Court on Defendant’s “Motion for Waiver of Speedy Trial and the Right to Have Charges Presented to Grand Jury Within 30 Days from Arrest on Criminal Complaint/Warrant” (the “Motion,” Doc. 12), and Defendant’s amended “Motion for Waiver of Speedy Trial and the Right to Have Charges Presented to Grand Jury Within 30 Days from Arrest on Criminal Complaint/Warrant” (the “Amended Motion,” Doc. 13), both of which request that the Court “permit the Defendant to waive his rights to a speedy trial and the right to have said charges presented to a Grand Jury within 30 days pursuant to 18 U.S.C. § 3161.” Docs. 12 at 1, 13 at 1.

On August 27, 2024, a criminal complaint was filed, charging Defendant with one violation of 18 U.S.C. § 2423(b) (travel with intent to engage in illicit sexual conduct). Doc. 1.

Defendant was arrested on August 28, 2024 and made an initial appearance on August 30, 2024.

The Motion was filed on September 13, 2024, Doc. 12, and the Amended

Motion was filed on September 16, 2024, Doc. 13. The Motion was signed by Defendant and appointed counsel; the Amended Motion was signed by Defendant, appointed counsel, and counsel for the Government.

An information or indictment charging an individual with the commission of an offense must be filed within thirty days from the date on which the individual was arrested or served with a summons in connection with such charge. 18 U.S.C. § 3161(b). A motion seeking an extension of that deadline may be allowed where the court finds “that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial.” 18 U.S.C. § 3161(h)(7)(A); see also United States v. Mathurin, 690 F.3d 1236, 1241–42 (11th Cir. 2012) (“It is clear Congress specifically contemplated the possibility that one or both parties, for reasons not listed in the Act, might need more than thirty days before an information or indictment could be filed. For those cases, it established a specific procedure by which a court would have to approve the delay based on on-the-record ‘findings that the ends of justice served by taking such [a delay] outweigh the best interest of the public and the defendant in a speedy trial.’”).

Here, the Motion and the Amended Motion indicate that Defendant, who is represented by appointed counsel, “understands that the Government intends to present this case to a Federal Grand Jury sitting in Charlotte, North Carolina the week of September 16, 2024, when that Grand Jury meets next

in Charlotte, or, at the latest, to a Federal Grand Jury sitting in Asheville, North Carolina the week of September 30, 2024, when that Grand Jury meets next in Asheville[,]” that the “waiver is submitted in the best interests of justice and would not work a hardship or prejudice on either party,” and that “the parties are working toward a pre-indictment resolution of this matter.” Docs. 12 at 1–2, 13 at 1–2.

After consideration of the Motion, the Amended Motion, and a review of applicable authorities, including the factors appearing in 18 U.S.C. § 3161(h)(7)(B), the Court finds and concludes pursuant to 18 U.S.C. § 3161(h)(7)(A) that the ends of justice served by extending the deadline for the Government to file a bill of indictment or information outweigh the best interests of the public and Defendant in a speedy trial, and that this delay should be excluded from Speedy Trial Act computations.

IT IS THEREFORE ORDERED THAT:

1. The “Motion for Waiver of Speedy Trial and the Right to Have Charges Presented to Grand Jury Within 30 Days from Arrest on Criminal Complaint/Warrant” (Doc. 12) is **DENIED AS MOOT**;
2. The “Motion for Waiver of Speedy Trial and the Right to Have Charges Presented to Grand Jury Within 30 Days from Arrest on Criminal Complaint/Warrant” (Doc. 13) is **GRANTED**; and,

3. The deadline for the Government to file a bill of indictment or information in this case is **EXTENDED** to and including Friday, October 11, 2024.¹

Signed: September 16, 2024

A handwritten signature in black ink, reading "W. Carleton Metcalf", written over a horizontal line.

W. Carleton Metcalf
United States Magistrate Judge



¹ As neither the Motion nor the Amended Motion request an extension of the filing deadline to a specific date, the deadline will be extended to the Friday of the week following the week during which the next Asheville Grand Jury session is scheduled.